

REMARKS/ARGUMENTS

Claims 30-49 were pending in this application. Claims 30, 39, 40 and 42 have been amended. Claims 35-38, 41 and 43 have been canceled. No claims have been added. Hence, claims 30-34, 39, 40, 42 and 44-49 remain pending. Reconsideration of the subject application as amended is respectfully requested.

Applicants acknowledge with appreciation the withdrawal of the rejection of claim 44 under 35 U.S.C. § 112, first paragraph, and the rejections of claims 36-39 under 35 U.S.C. § 112, second paragraph.

Claims 30-49 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Claims 30-49 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the cited portions of U.S. Patent No. 6,169,894 to McCormick et al. (hereinafter “McCormick”).

Claims 30, 39, 40 and 42 have been amended to more particularly point out and distinctly claim the Applicants’ claimed invention, the support for which may be found at, for example, Fig. 3 and the associated description. No new matter has been added.

Claims Rejected Under 35 U.S.C. § 112

The Applicants believe the amendments herein overcome the 35 U.S.C. § 112 rejection.

Claim Rejections Under 35 U.S.C. § 102(e)

The Applicants have amended the claims to include subject matter not taught by McCormick. Specifically, claim 30 recites, “receiving a request to receive the same selected media program from a second wireless handset; in response to the request, determining whether the second wireless handset is in the cell site coverage area; and based upon the determination,

establishing a second wireless channel upon which to broadcast the selected media program to the second wireless handset, wherein the second wireless channel is different than the first wireless channel.” Claim 40 includes a similar limitation and is believed to be allowable for the same reasons as explained immediately hereinafter.

While McCormick does appear to teach multiple users, as the Office Action states, McCormick does not appear to teach any sort of determination as to whether a second requesting device for the same media program is located in the same cell site coverage area. Hence, claim 30 is believed to be allowable at least for this reason.

Moreover, even if such a determination were made, McCormick does not teach establishing a second, *different* wireless channel upon which to broadcast the selected program, based on the determination. The Office Action references column 5, lines 20-40, for this teaching in response to a similar, previously-examined limitation. But this section does not teach this. McCormick appears to teach broadcasting *different* media programs on *different* channels within a broadcast region or sector of a broadcast region (“Depending upon local conditions specific to each such geographic region 130 or sector within each geographic region 130, each such broadcast channel 270 is potentially and likely to be varied and different from each of the other broadcast channels 270.”). The quoted reference refers to the immediately-preceding sentence and Fig. 2, which shows a group of different broadcasts 270 stored in memory. These broadcasts 270 represent different media programs. Not only is this clear from the description, it logically follows from the notion that that there is no need to maintain multiple copies of the same broadcast in the same memory. Hence, McCormick does not teach broadcasting the same media program on different wireless channels, and claim 30 is believed to be allowable, at least for this additional reason.

Claim 40 is believed to be allowable for the reasons stated above. The remaining claims depend from one of these independent claims and are believed to be allowable, at least for the foregoing reasons.

Conclusion

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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